

CHAPTER 13 TRUSTEE  
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March 2, 2007

Senator Larry Jent  
Montana Senate  
P.O. Box 200500  
Helena, MT 59620-0500

Dear Senator Jent:

I am the Standing Chapter 13 Bankruptcy Trustee for the State of Montana. Over the course of this year, I expect that I will distribute over \$5 million to creditors through confirmed chapter 13 bankruptcy plans. This letter is to address HB-149 entitled A Bill to "Increase Homestead Debt Protection." The substance of the bill is to increase the allowed homestead exemption from \$100,000.00 to \$350,000.00.

This bill, if passed, will impair my ability to pay creditors under the terms of chapter 13 plans. While certain changes are needed to our homestead laws, raising the homestead exemption is not one of them. The fact that a person must file a Declaration of Homestead rather than getting an automatic homestead exemption should be revised. The Montana Supreme Court, in the case of *In re Mary Snyder*, recognized that certain inconsistencies exist in homestead laws including the ability to claim proceeds even when there is no occupation of the residence. Judge Haddin, in a recent case, determined that a debtor must occupy the homestead in order to claim the homestead exemption. This has never been clarified by the legislature.

On the other hand, the substance of HB-149 neither clarifies the homestead exemption statute, nor treats creditors and debtors in an equitable fashion. The bill treats the creditors unfairly, treats bankruptcy trustees unfairly, will encourage exemption planning, and will be bad for the State of Montana. I would encourage you to leave the bill on the table.

Very truly yours,

CHAPTER 13 STANDING TRUSTEE



Robert G. Drummond